

1814.31

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
 : Examiner: Unknown
 AARON FENSTER, ET AL.)
 : Group Art Unit: Unknown
 Appln. No.: 09/180,629)
 :
 Filed: November 13, 1998)
 :
 For: THREE-DIMENSIONAL) November 12, 1999
 IMAGING SYSTEM :
)

BOX PCT

Assistant Commissioner for Patents
 Washington, D.C. 20231

PETITION UNDER 37 C.F.R. § 1.47(a)

11/19/1999 PVOLPE 00000099 09180629

02 FC:122 Sir: 130.00 DP

Applicants Aaron Fenster and Kenneth Dunne
 respectfully petition the Assistant Commissioner to accept
 the above-identified patent application on behalf of
 themselves and one other joint inventor, Mr. Shane Dunne (no
 relation to Applicant Kenneth Dunne) who, after diligent
 effort on the part of Applicants Aaron Fenster and Kenneth
 Dunne, could not be found or reached.

FACTS

1. Shortly after the parent PCT application PCT/CA98/00247 was prepared and filed in Canada on March 20, 1998, joint inventor Mr. Shane Dunne left the employment of Applicant Life Imaging Systems Inc. Mr. Shane Dunne left the forwarding address of:

Mr. Shane Dunne
Suite 401
587 Talbot Street
London, Ontario, Canada N6A 2T2

2. National stage entry in the United States was commenced November 13, 1998, and the undersigned caused a Combined Declaration and Power Of Attorney for U.S. Patent Application to be forwarded to Life Imaging Systems Inc. for execution by the three inventors Aaron Fenster, Kenneth Dunne, and Shane Dunne. Aaron Fenster executed the Declaration on February 11, 1999, and Mr. Kenneth Dunne executed the Declaration on June 21, 1999. Thereafter, the Declaration was forwarded to the undersigned since inventor Shane Dunne could not be located by Life Imaging Systems Inc.

3. In early May, the undersigned conducted extensive E-mail and telephone inquiries throughout Canada

and the eastern United States in an attempt to locate Mr. Shane Dunne. However, no telephone or E-mail inquiry resulted in locating Mr. Shane Dunne. Accordingly, on May 26, 1999, the undersigned forwarded to Mr. Shane Dunne's last known address a letter enclosing a complete copy of the patent application (including specification, claims, and drawings) together with the Declaration/Power of Attorney form. A copy of that letter is attached. See the attached Declaration of Richard P. Bauer.

4. However, the May 26, 1999 DHL letter was returned by DHL with an indication that the letter was not deliverable to that address and no forwarding information could be obtained. See the attached Declaration of Richard P. Bauer.

5. Accordingly, after diligent effort, joint inventor Mr. Shane Dunne could not be found or reached.

RELIEF REQUESTED

It is evident that joint inventor Mr. Shane Dunne could not be found or reached after diligent effort.

Accordingly, Applicants Aaron Fenster and Kenneth Dunne petition the Assistant Commissioner to accept the subject application under the provisions of 37 C.F.R. § 1.47(a).

FEE

Attached herewith is a check in the amount of \$130.00 as required by 37 C.F.R. § 1.17(a). The Assistant Commissioner is hereby authorized to charge Deposit Account No. 06-1205 for any deficiency in this fee.

Applicants' undersigned attorney may be reached in our Washington office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,


Attorney for Applicants

Registration No. 3). 588

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
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AARON FENSTER, ET AL.)	
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For: THREE-DIMENSIONAL)	November 12, 1999
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BOX PCT

Assistant Commissioner for Patents
Washington, D.C. 20231

**DECLARATION OF RICHARD P. BAUER IN SUPPORT
OF PETITION UNDER 37 C.F.R. § 1.47(a)**

Sir:

I, RICHARD P. BAUER, hereby declare and state that:

1. I am a partner at Fitzpatrick, Cella, Harper & Scinto and I am the person principally in charge of prosecuting the subject application.

2. On November 13, 1998, I filed the national stage entry papers for the above-referenced patent application in the U.S. Patent and Trademark Office.

Thereafter, I caused a Combined Declaration and Power of Attorney for U.S. Patent Application to be forwarded to Life Imaging Systems Inc. for execution by joint inventors Aaron Fenster, Kenneth Dunne, and Shane Dunne (no relation to Applicant Kenneth Dunne).

3. On April 7, 1999, I received the Declaration/Power of Attorney form which was executed by inventor Aaron Fenster, but not inventors and Kenneth Dunne and Shane Dunne. Noting that both Dunnes had not executed the Declaration, I telephoned Life Imaging Systems Inc. I was advised that Mr. Kenneth Dunne would sign the Declaration; but that Mr. Shane Dunne could not be located, and that mail sent to his forwarding address (Suite 401, 587 Talbot Street, London, Ontario, Canada N6A 2T2) had been returned. Mr. Kenneth Dunne executed a copy of the Declaration on June 21, 1999, and the copy was forwarded to me.


4. In early May 1999, I conducted an extensive investigation via telephone and E-mail in an attempt to locate Mr. Shane Dunne. For example, I E-mailed every Shane Dunne found in a web search at <http://people.yahoo.com>. All such inquiries were returned to my mail server with a

notation that no such addressee existed at the address. I also telephoned directory information in London and Toronto, Ontario, Canada, and in Montreal, Quebec, Canada. I also telephoned information in Chicago, Illinois. The only Shane Dunne found in any of these locations was a telephone number in Toronto, Ontario, Canada. When I telephoned that number, the person who answered the phone said that no Shane Dunne lived at that number and was unknown to the person answering the phone. Accordingly, on May 26, 1999, I forwarded to Mr. Shane Dunne's last known address a letter enclosing a complete copy of the patent application (including specification, claims, and drawings) together with the Declaration/Power of Attorney form. A copy of that letter is attached.

5. However, the May 26, 1999 DHL letter was returned by DHL with an indication that the letter was not deliverable to that address and no forwarding information could be obtained.

6. Accordingly, after diligent effort on my part, I conclude that joint inventor Mr. Shane Dunne could not be found or reached.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that the statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements made jeopardize the validity of the subject application or any patent issuing thereon.


Richard P. Bauer, Reg. No. 31,588

10 Rec'd

12 NOV 1999

FITZPATRICK, CELLA, HARPER & SCINTO

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ROBERT C. KLINE *
COUNSEL

* ADMITTED IN THE DISTRICT OF COLUMBIA

May 26, 1999

VIA DHL COURIER

Mr. Shane Dunne
Suite 401
587 Talbot Street
London, Ontario, Canada N6A 2T2

Re: U.S. Patent Application
For: THREE-DIMENSIONAL IMAGING SYSTEM
Our Ref.: 1814.31

Dear Mr. Dunne:

I am a U.S. patent attorney in charge of prosecuting the above-referenced U.S. patent application before the U.S. Patent and Trademark Office on behalf of Life Imaging Systems Inc. of London, Ontario, Canada. You are named as one of the joint inventors of the subject application.

Enclosed is a complete copy of the patent application. Please carefully review the entire application to include the specification, claims, and drawings.

Also enclosed is a Declaration/Power of Attorney form which we ask you to read, sign, date, and return to me at your earliest convenience. Please also correct your residence address on the form, if necessary.

I have enclosed a pre-paid return Federal Express envelope so that you can return the signed document to me. If you choose not to sign the Declaration, please indicate

Mr. Shane Dunne
May 26, 1999
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such in the space below my signature and return this letter to me in the Federal Express envelope.

Please do not hesitate to call me if you have any questions regarding this or other patent-related matters.

Best regards.

Sincerely,

A handwritten signature in dark ink, appearing to read "Richard P. Bauer", written in a cursive style.

Richard P. Bauer

_____ I refuse to sign Declaration/Power of Attorney

RPB:dew
Encls.: U.S. patent application
Declaration/Power of Attorney

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